

ALABAMA BOARD OF NURSING

REGULAR BOARD MEETING

Fiscal Year 2014-2015

Suite 350, RSA Plaza

770 Washington Ave

Montgomery, Alabama

February 19, 2015

I. CALL TO ORDER

A. Roll Call

The meeting was called to order at 9:00 a.m. on February 19, 2015. The following Board members were present: Francine Parker, EdD, MSN, RN, President; E. Laura Wright, PhD, MNA, CRNA, Vice-President; Gladys Davis Hill, MSN, RN, Secretary; Natalie Baker, DNP; CRNP; Cheryl Bailey, RN, BSN, MBA; Melissa Bullard, LPN; Judith LaDonna Burns, LPN; Catherine Dearman, RN, PhD; Chrystabell King, LPN; Jill B. Hightower, MSN, RN; Helen T. McAlpine, Ed.D.; and Amy Price, MSN, RN. Peggy Benson, MSN, RN, Deputy Director and Leslie Vinson, Executive Secretary/Recorder were present. Staff members attending portions of the meeting were: Brad Jones, IT Systems Specialist; Honor Ingels, Chief Legislative and Information Officer; Charlene Cotton, MSN, RN, Advanced Practice; Cathy Russell, MSN, RN, PhD, Nursing Education Consultant; Mary Ed Davis, MSN, RN, Voluntary Disciplinary Alternative Program; Cathy Boden, MSN, RN, Legal Nurse Consultant; LaDonna Patton, MSN, RN, Legal Nurse Consultant; Patrick Samuelson, Assistant General Counsel; and Alice Maples Henley, Deputy Attorney General/General Counsel.

B. Declaration of Quorum

A quorum was declared with twelve Board members present. Peggie Carpenter, BA, LPN, was not present.

C. Statement of Compliance with Open Meetings Act

Prior notice of this meeting was posted on the Secretary of State's web site in accordance with the Alabama Open Meetings Act.

D. Oath of Office

Ms. King, Ms. Hill and Ms. Burns read the Oath of Office.

E. Review of Agenda

1. Additions, Modifications, Reordering

2. Adoption of Agenda

On February 19, Ms. Hill moved that the Board approve the Agenda, as amended. Ms. Bullard seconded. Motion carried without objection.

II. ADVANCED PRACTICE

A. Collaborative Practice Applications

Ms. Cotton reported that the Joint Committee met February 17 to review the applications for collaborative practice. The roster includes all collaborative practice applications that were complete by January 19, 2015.

The following applicants received temporary approval but withdrew the application prior to working with the collaborating physician or terminated the collaboration after brief practice: (1) Traci Morgan, 1-065444, and Dr. Santiago Borasino, 28139; (2) Patricia Noonan, 1-091584, and Dr. Lisa Ford-Crawford, 33371; (3) Hope Warren, 1-082490, and Dr. Kynard Adams, 10658; (4) Ritchelle Broadnax, 1-094939, and Dr. Edwin Matthews, 25048; (5) Dana Free, 1-090098, and Dr. Spencer Alexander, DO-0702; (6) Paul McDonald, 1-114040, and Dr. Harshjit Singh, 30413; (7) Robert Salter, 1-071631, and Dr. Jose Oblena, 19610; (8) Shannon Doyal, 1-096078, and Dr. Luis Franco, 10073; (9) Chikisha Flint, 1-106773, and Dr. George Evans, 16278; (10) Connie Jones, 1-042611, and Dr. Berenice Serpas, 32597; (11) Sarah Kuhlers, 1-102303, and Dr. Adahli Massey, 23033; (12) Sarah Smith, 1-060453, and Dr. Edwin Matthews, 25048; (13) Mark L. Smith, 1-072029, and Dr. Hobert J. Sharpton, DO-0205; and (14) Jennifer Turner, 1-129376, and Dr. Warren Strickland, 19435.

The Joint Committee made the following recommendations: (1) approval of the standard protocol and standard formulary with additional duties including superficial chemical peel for Charlene

Penn, 1-098990 and Dr. Timothy Ashley, 14636, but deny the request for medium depth chemical peel; (2) approve standard protocol and standard formulary with specialty formulary for antineoplastic agents for Rose Wells, 1-026125, and Dr. Mary Anne Vu, 29344, but defer the request for additional skill, ductal lavage of breast for random screening; (3) approve the modifications to existing collaborative practice for additional locations, duties and/or restricted drug classifications for applicants 137-3 through 179-3 listed in the roster; and (4) approve the collaborative practice application of Nadine Hartwig, 1-040411, and Dr. Daniel Clayton Burnes, 29110.

Ms. Cotton reported that Ms. Hartwig will be providing house calls for homebound patients, but will not practice in Dr. Burnes' primary practice site, North Alabama Medical Care. Dr. Burnes and Ms. Hartwig have outlined a plan for completing Quality Assurance and meeting at Dr. Burnes's office location for collaboration. Dr. Burnes stated he is willing to make home visits with Ms. Hartwig for collaboration.

Ms. Cotton provided copies of the roster of applications for the Board's review and approval.

On February 19, Dr. Wright moved that the Board approve the applicants for collaborative practice as listed in the roster and the amended report, excluding the items that were denied by the Joint Committee. Ms. Price seconded. Motion carried without objection.

B. New Skill Request: Cystoscopy

Ms. Cotton reported that the Cystoscopy has not been approved by the Board of Nursing for the practice of a Certified Registered Nurse Practitioner (CRNP). Stefanie Crenshaw, CRNP 1-101772, Family NP is in collaborative practice with Dr. Paul A. Scott MD.25076, Urologist in Mobile. They applied for approval to perform cystoscopy to evaluate bladder, for difficult stent removal, to perform guide wire placement for urethral dilation; and complex foley catheter placement under local anesthetic with lidocaine jell. The plan for instruction would involve one-to-one instruction by Dr. Scott as he provides the procedure to patients in his practice.

The Board of Medical Examiners in the past has requested input from physician specialty organizations when considering proposals for PAs, CRNPs and CNMs to perform invasive procedures. Restriction on arthrocentesis/joint injections and colposcopic

cervical procedures were in place for more than ten years before physicians in the respective specialties came together to support protocols for NPs and PAs changes in the restrictions.

CRNP and CNM may qualify to perform colposcopic diagnostic and therapeutic procedures on the cervix after completion of the internationally recognized curriculum of the American Society for Colposcopy and Cervical Pathology. Physicians, nurse practitioners and physician assistants complete the same didactic study and must meet the same mentored review of their case descriptions and treatment summaries.

The proposal from Ms. Crenshaw and Dr. Scott proposes procedural instruction within his clinical practice, but does not describe theoretical content to support the proposed procedures. As reported by Quallich, there are not many NPs who report practicing in urology. Thus, there is limited experience upon which to base a decision allowing cystoscopy in the scope of practice for nurse practitioners.

Ms. Cotton provided copies of the application, statutes and rules, email from M. Goff, and an article: Role of NP in Urology by S. Quallich, for the Board's information and review.

The Board reviewed and discussed the information provided.

On February 19, Dr. Wright moved that the Board deny the application. Dr. Dearman seconded. Motion carried without objection.

III. POLICY

A. Proposed Amendments, ABN Administrative Code, Chapter 610-X-5, Advanced Practice Nursing – Collaborative Practice

Ms. Cotton reported that in February 2014, the Joint Committee discussed possible changes to the collaborative practice rules for Certified Registered Nurse Practitioners (CRNP) and Certified Nurse Midwives (CNM). The committee received drafts at the April 2014 meeting, but took no action. The topic has been listed on each agenda for the Joint Committee, with no feedback from the Board of Medical Examiners (BME) until December 2014. In January 2015, the Board of Medical Examiners accepted proposed amendments to their rules, Chapter 540-X-8, and referred them to the Joint Committee and to the Board of Nursing.

The proposed rules incorporate changes away from the burdensome documentation requirements that were created in the late 1990s to regulate the implementation of APN prescriptive authority. The draft provided by the Board of Medical Examiners was adapted to the ABN rules, section by section. However, the BME draft did not address the ABN's 2014 proposal to add rules defining "off-label" prescribing. These two sections are included in the proposal under review by the Joint Committee.

Ms. Cotton provided copies of the proposed rules and the BME Chapter 540-X-8, proposed changes for the Board's information and review.

The Board reviewed and discussed the proposed rules.

On February 19, Ms. Bullard moved that the Board approve the amendments to ABN Administrative Code, Chapter 610-X-5, Advanced Practice – Collaborative Practice. Ms. Price seconded. Motion carried without objection.

B. Proposed Amendments, ABN Administrative Code, Rule 610-X-3-.02, Nursing Education Programs Standards for Approval

Dr. Russell reported that the nursing education outcome standard was amended December 2010 and went into effect July 2012. In the past, there have been a few RN programs which have voiced an interest in eliminating microbiology as a prerequisite for the associate and baccalaureate degree nursing programs plan of study. There has been increased interest amongst potential nursing students in courses offered on-line as opposed to traditional classroom setting. Sciences taught using online technology are usually accompanied with a corresponding 'virtual' lab.

The education consultant used National Council of State Boards (NCSBN) of Nursing web survey to ascertain how many state boards regulate pre-requisite science courses, courses regulated, and whether a distinction is made between 'virtual' or 'hands-on' labs. Only thirty-nine state boards of nursing responded to the survey. Twenty-seven state boards stated that they did not regulate pre-requisite courses. Ten programs reported that they required anatomy and physiology with a lab and microbiology. Florida, Arkansas, and Illinois reported that they only required anatomy and physiology; however, when the nurse consultant examined the curriculum for nursing programs in those states,

microbiology was listed as a pre-requisite. The nurse consultant randomly looked at the curriculum for schools of nursing in states that self-reported that they did not regulate pre-requisite courses and found that anatomy and physiology, as well as microbiology were listed as required courses in the plan of study. Several programs also required chemistry.

The nurse consultant was unable to determine whether the schools in other states accepted virtual labs in lieu of or as an adjunct to hands-on labs. Linda Cater, MSN, RN, Director of Health Programs, conducted a survey within the Alabama Community College system, regarding the use of 'virtual labs'. The survey revealed that virtual labs were not being used as substitutes for but rather complementary to hand-on labs.

The proposed rule was written to ensure that fundamental pre-requisite knowledge is not eliminated from the plan of study and that the board will be made aware of any substantive curricular changes made.

Dr. Russell provided copies of the proposed amendments for the Board's information and review.

The Board reviewed and discussed the proposed amendments.

On February 19, Ms. Price moved that the Board approve the amendments to ABN Administrative Code, Rule 610-X-3-.02, Nursing Education Programs Standards for Approval. Dr. Dearman seconded. Motion carried with one opposition (Ms. Bullard).

C. Proposed Amendments, ABN Administrative Code, Rule 610-X-3-.05, Nursing Education Programs Outcome Standards

Dr. Russell reported that the nursing education outcome standard was amended December 2010, and went into effect July 2012. The rules state that beginning with Fiscal Year (FY) 2013 (October 1, 2012), the Board shall calculate the program's pass rate with a three-year rolling average. The first three-year period ends at the end of FY 2015 (September 30, 2015). The Board shall take the pass rate for FY 2013 through FY 2015 and average the pass rate. Subsequent to FY 2015, the Board shall drop the pass rate for the first of the three-year time period, add the subsequent first-time writers pass rate, and calculate the three-year average.

Since this rule went into effect, eighteen out of forty-three (41.9%) RN programs and one out of twenty-three (4.3%) PN programs

failed to meet the outcome standard in FY 2013. At the end of the third quarter FY 2014, fourteen out of forty-four (31.8%) RN programs and three out of twenty-three (13%) PN programs' average NCLEX ® scores failed to meet the outcome standard. Seven RN programs and one PN program failed to meet outcome standards consecutively. It is mathematically impossible for five of these programs to meet the three year rolling average of 80% in FY 2015. Three of these programs are voluntarily closing. In comparison, five out of forty-three (11.6%) RN programs and two out of twenty-four PN (8.3%) programs failed to meet the outcome standard in FY 2012.

The proposed rule was written to clarify how the Board will actually calculate the rolling average for the nursing education programs and ensure that programs that are unable to meet the outcome standard are addressed in a timely manner.

Dr. Russell provided copies of the proposed amendments for the Board's information and review.

The Board reviewed and discussed the proposed amendments.

On February 19, Dr. Wright moved that the Board approve the amendments to ABN Administrative Code, Rule 610-X-3-.05, Nursing Education Programs Outcome Standards. Ms. Price seconded. Motion carried without objection.

D. Proposed Amendments, ABN Administrative Code, Rule 610-X-3-.06, Deficiencies

Dr. Russell reported that the nursing education deficiency was amended December 2010, and went into effect July 2012. The amended Rules state that beginning with FY 2015 national licensure examination pass rates, approved nursing education programs that fail to meet the three-year rolling average of 80% for first time writers shall have the following time frame to correct the deficiency: (a) registered nursing education programs shall have two years from receipt of the Notice of Deficiency; (b) practical nursing education programs shall have one year from receipt of the Notice of Deficiency; and (c) provisionally approved nursing education programs shall have one year from receipt of the Notice of Deficiency.

The deficiency language is unclear because it appears as though provisionally approved programs have three years to meet the outcome standard. The proposed rules clarify that provisional programs have a separate outcome standard of one year and any

provisional program that fails to achieve the 80% pass rate would have one year to make corrections.

Dr. Russell provided copies of the proposed amendments for the Board's information and review.

The Board reviewed and discussed the proposed amendments.

On February 19, Dr. Wright moved that the Board approve amendments to ABN Administrative Code, Rule 610-X-3.06, Deficiencies. Ms. Price seconded. Motion carried without objection.

IV. EDUCATION

A. Nursing Education Annual Report

Dr. Russell reported that the ABN Administrative Code, Rule 610-X-3.10 states that "nursing programs shall complete the nursing education annual report in a format specified by the Board within the time specified." The deadline for submission of the Annual Report was November 30, 2014. All reports were submitted on time.

Nursing Programs self-report information on faculty, students, curriculum, and program outcomes. The education consultant analyzes the reports and summarizes the data for Board members to review.

Dr. Russell reviewed the Executive Summary of the Nursing Education Annual Report for the Board.

The Board reviewed and discussed the annual report.

Ms. Bailey was not present from 11:34 to 11:37 a.m.

B. FY 2015 1st Quarter NCLEX® Results Analysis

Dr. Russell reported that passage rates on the RN and PN programs are received each quarter from NCSBN. The scores are reported to the programs and to Board members. Students who wrote the NCLEX–RN exam represented thirty-nine nursing programs: twelve baccalaureate degree granting and twenty-six associate degree-granting programs. Two hundred and one students wrote the NCLEX-RN exam; of which one hundred thirty-two (65.7%) passed, and sixty-nine (34.3%) failed. Thirty-four

percent of RN programs whose students tested during first quarter FY 2015 failed to achieve the 80% composite first time writers pass rate on the NCLEX exam. Thirty-three percent baccalaureate degree granting programs met the first-time writers 80% outcome standard for first quarter 2015, as compared to thirty-one of the associate degree granting programs.

Students from nineteen PN programs wrote the NCLEX-PN exam. Two of those programs failed to achieve the outcome standard, Fortis Institute (closed in December, 2014) and LBW-MacArthur Campus. Ninety-one students wrote the NCLEX-PN exam; of which eighty (87.9%) passed, and eleven (12.1%) failed. Ninety percent (90%) of PN programs met the 80% Outcome Standard and 10% did not.

Dr. Russell reported that the University of Mobile ADN Program is closing.

Dr. Russell provided a copy of the Analysis of first quarter NCLEX-RN results for the Board's information and review.

C. South University

Dr. Russell reported that in November 2014, at the request of Board staff, Dr. French, Director for the Office of Institutional Effectiveness at the Alabama Commission on Higher Education (ACHE), provided the Board with documentation that had been sent to South University's parent company, Education Management Corporation (EDMC), on May 22, 2014, indicating that ACHE had terminated South University-Montgomery's programmatic approval for failure to comply with state authorization provisions and that "South University-Montgomery, a branch campus of South University in Georgia" had been removed from ACHE's Inventory of Non-Resident Institutions.

According to Rule 610-X-3-.02(2)(b) of the ABN Administrative Code, "The governing institution, nursing program administrator, and nursing faculty are accountable for the standards, processes, and outcomes of the nursing education program. (2) The governing institution offering the nursing program shall be: approved and licensed by the appropriate State of Alabama educational agency(ies) as required by law. Upon determining that a program is not in compliance with the standards set forth in Chapter 610-X-3, the Board shall provide the governing institution administrator and nursing program administrator a written notice of deficiencies that establishes a reasonable time, based upon the number and severity of deficiencies, to correct deficiencies."

Based on the documentation from ACHE, the Board voted at its December 2014 meeting to issue a Notice of Deficiency to South University for noncompliance with the Board's approval standards. The Board gave South University an expected date of correction of January 31, 2015.

By letter of January 28, 2015, South University responded to the Notice of Deficiency through its attorneys. Specifically, South University maintains that it is not "required by law" to be licensed by ACHE" because South University is "an Alabama institution, incorporated in Alabama and with its principal place of business in Montgomery, Alabama." South University provided documentation that it is licensed by exemption by the Alabama Department of Postsecondary Education (ADPE). South University also provided a copy of a letter South University sent to the Attorney General's Office providing background information regarding its interactions with ACHE and taking issue with the underlying premise upon which the Attorney General's Office had issued an opinion regarding the effect of a legislative resolution and ACHE's alleged termination of programmatic approval. ACHE has provided copies of correspondence to the Board regarding its interactions with South University. There appears to be an unresolved disagreement between ACHE and South University about whether South University falls within ACHE's regulatory oversight.

Based on the available information, the Board has the following options: (1) withdraw the Notice of Deficiency based on the fact that the information received from ACHE did not identify the disagreement, with the proviso that should additional information come to light that South University is subject to ACHE oversight, the deficiency may be issued again; (2) table further action on the Notice of Deficiency until such time as the disagreement between ACHE and South University is resolved; (3) table further action until South University comes and provides a complete overview of the issue to the Board; and (4) determine that South University has failed to correct the deficiency and move forward with an administrative hearing.

Ms. Henley reported that she and Ms. Benson met with the attorneys for South University and they provided additional correspondence from ACHE to South University. The dispute is long standing but the Board was not aware of the issue at the time the Notice of Deficiency was issued.

Dr. Russell provided copies of ACHE's letter to EDMC, the Notice of Deficiency, and South University's response to the Notice of Deficiency for the Board's information and review.

The Board reviewed and discussed the information provided.

On February 19, Dr. Wright moved that the Board withdraw the Notice of Deficiency based on the fact that the information received from ACHE did not identify the disagreement, with the proviso that should additional information come to light that South University is subject to ACHE oversight, the deficiency may be issued again. Ms. King seconded. Motion carried without objection.

V. LEGAL

A. VDAP Agreement Shells

Ms. Davis reported that in October and November 2014, the Board reviewed, revised, and approved amendments to the stipulated terms used in the consent order shells. There are four shell VDAP Agreements: VDAP Substance Use Disorder Agreement; VDAP Substance Use Disorder Advanced Practice Nurse Agreement; VDAP Physical Illness Agreement; and VDAP Mental Health Agreement. Board staff members have updated the VDAP agreement shells to incorporate (to the extent possible given the differences in the programs) the revisions to the stipulations in the consent order shells. It is important for the Board to carefully review any changes to the VDAP agreement shells because the Board does not have the opportunity to review each agreement when signed by the nurse.

Ms. Davis provided copies of the VDAP Substance Use Disorder Agreement proposed revisions, VDAP Substance Use Disorder Advanced Practice Nurse Agreement proposed revisions, VDAP Physical Illness Agreement proposed revisions, and VDAP Mental Health Agreement proposed revisions for the Board's information and review.

The Board reviewed and discussed the proposed revisions.

On February 19, Dr. Wright moved that the Board approve the revisions to the VDAP Agreement shells. Dr. Dearman seconded. Motion carried without objection.

VI. DEPUTY DIRECTOR

A. Board Composition

Ms. Benson reported that in 2014 potential legislation related to composition of the Board was identified as an emerging issue for 2015. The Board has not previously expressed an opinion related to any potential changes in Board composition.

At the January 2015 Board meeting the Board requested historical data related to Board composition and the licensee population.

Ms. Benson reported that she talked to Joe Knight who has had conversations with the Nurse Practitioner Alliance of Alabama (NPAA) and they still intend to draft proposed legislation placing four additional advanced practice positions on the Board.

Dr. Baker reported that she was informed that NPAA recognizes that they should not ask for four additional advanced practice positions and have decided to ask for two positions. The Board discussed NPAA's concerns about the number of advanced practice representatives on the Board.

Dr. Baker reported that NPAA also intends to draft proposed legislation as to how members are appointed to the Board. NPAA believes all applications should be submitted to the Governor rather than to the professional associations.

Dr. Baker reported that she thinks that advanced practice is well represented on the Board.

Dr. Parker reported that the practicing RNs are under-represented on the Board.

Dr. Dearman reported that the make-up of the Board is not supposed to be linked to the number of licensees. It was for the areas of expertise.

Ms. Price reported that the biggest deficit this Board has is in the home care/hospice arena. Healthcare is moving away from the inpatient hospital setting and if you look at the make-up of the Board and protecting the public, there is not that level of expertise.

Ms. Benson reported that the first Advanced Practice Advisory Council meeting is March 6, 2015. The advisory council can look

at the Board composition and make recommendations to the Board.

Ms. Benson provided copies of the historical licensure data for the Board's information and review.

The Board reviewed and discussed the information provided.

After discussion, the Board tabled the issue until the March Board meeting.

B. Strategic Plan

Ms. Benson provided a FY 2014-2018 Strategic Plan update for the Board.

C. Proposed 2016 NCLEX-RN® Test Plan

Ms. Benson reported that NCSBN Examination Committee has requested that the Board review the proposed changes to the 2016 NCLEX RN test plan and provide input to the committee prior February 20, 2015.

Ms. Benson provided copies of the proposed 2016 NCLEX-RN® Test Plan for the Board's information and review.

The Board reviewed and discussed the proposed test plan and had no comments. The 2016 NCLEX-RN® test plan appears to be the same as the 2013 NCLEX-RN® test plan.

D. ALHAC Data

Ms. Benson reported that on January 22, 2015, the Board voted to request an Attorney General's Opinion regarding the release of data to the Alabama Health Action Coalition (AL-HAC). The request for opinion asked the following question:

May the Alabama Board of Nursing share with AL-HAC de-identified nurse data containing the below-described data and survey answers derived from existing Alabama Board of Nursing data and survey responses for the purpose of research that is consistent with the Board's statutory purpose?

"Every citizen has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by

statute.” Ala. Code 36-12-40. There is not a definition of a “public writing” in the Code of Alabama, but there is a definition of a “public record”: “all written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the state, counties, municipalities and other subdivisions of government in the transactions of public business and shall also include any record authorized to be made by any law of this state belonging or pertaining to any court of record or any other public record authorized by law or any paper, pleading, exhibit or other writing filed with, in or by any such court, office or officer.” Ala. Code 41-13-1.

The seminal case on public records is Stone v. Consolidated Publishing Co., 404 So. 2d 678 (Ala. 1981). In that case, the Alabama Supreme Court defined a public writing as: “such a record as is reasonably necessary to record the business and activities required to be done or carried on by a public officer so that the status and condition of such business and activities can be known by our citizens.” Stone v. Consolidated Pub. Co. 404 So.2d 678, 681 (Ala. 1981).

However, in Stone, the court established some exceptions to the public nature of writings: “Recorded information received by a public officer in confidence, sensitive personnel records, pending criminal investigations, and records the disclosure of which would be detrimental to the best interests of the public are some of the areas which may not be subject to public disclosure. Courts must balance the interest of the citizens in knowing what their public officers are doing in the discharge of public duties against the interest of the general public in having the business of government carried on efficiently and without undue interference.” Stone v. Consolidated Pub. Co. 404 So.2d 678, 681 (Ala. 1981).

With regard to the data proposed to be released to AL-HAC, none of the elements appear to constitute information that is not a public writing. Board staff has indicated that licensees were never told the information in their survey responses would be private, so those answers were not received “in confidence.” Race and sex are not exempt from disclosure. Alabama Attorney General’s Opinion 2007-067 (to Hon. William A. Meehan, April 3, 2007). A date of birth is a public record (Alabama Attorney General’s Opinion 2012-045 (to Hon. E. Shane Black, March 13, 2012)); therefore, age would certainly be public information. Consent of the person whose information is being released is not generally

required. Alabama Attorney General's Opinion 2007-067 (to Hon. William A. Meehan, April 3, 2007). Id.

"Because a state agency may regulate the manner in which public records are produced, inspected, and copied, a state agency, to be in compliance with sections 36-12-40 and 36-12-41, is not required to distribute public records in the manner that a requester specifies." Alabama Attorney General's Opinion 2007-001 (to Hon. John D. Harrison, October 2, 2006). In that opinion request, the State Banking Department had asked whether it was required to export data from its database." Thus, the Board is under no obligation to export the public data from its database and provide it to AL-HAC in any specific format. However, if the Board chooses to do so, it must provide the same service for other requesters of the information.

The information to be released appears to be public in nature. It is likely that an opinion of the attorney general would conclude so, and would indicate the information could be released, with the warning that the Board would be required to provide similar data extraction for other people should it be requested. When an attorney general's opinion is published, it is distributed throughout the state. The release of the opinion could lead others to make similar requests of the Board, resulting in the Board being inundated with requests of a similar nature.

Ms. Benson provided copies of the request for an Attorney General's Opinion for the Board's information and review.

On February 19, Ms. Bailey moved that the Board withdraw the request for an Attorney General opinion. Ms. Price seconded. Motion carried without objection.

On February 19, Ms. Bailey moved that the Board release the data to AL-HAC. Ms. King seconded. Motion carried without objection.

VII. REPORTS OF MEETINGS ATTENDED

A. 2015 FARB Forum, Tucson, AZ – January 22-25, 2015

Ms. King reported on her attendance at the 2015 FARB Forum.

VIII. BOARD TRAVEL

A. AONE 2015: Empowering Leaders Igniting Change, Phoenix, AZ – April 15-18, 2015

Ms. Bailey and Ms. Price were approved to attend.

IX. BOARD DEVELOPMENT

A. Legislative Update

Mr. Ingels conducted a power point presentation on his role with the Board and legislative review.

X. EO POLICY COMMITTEE

A. EO Policies

Dr. Parker reported that the EO Policy Committee met on February 5, 2015, to develop policies for the EO position. It is not the intent of the Committee to micromanage the executive officer position but it is the intent to ensure there is oversight and that the responsibilities put before the Board are being accomplished.

Dr. Parker provided copies of the proposed EO Policies for the Board's information and review.

The Board reviewed and discussed the proposed policies.

On February 19, Dr. Wright moved that the Board approve the EO Policies. Ms. King seconded. Motion carried with one abstention (Ms. Bullard).

Dr. McAlpine reported that she thinks there should be a job description for the EO position as well as policies.

Ms. Price thanked the Committee for their work.

XI. NEXT MEETING DATE: March 12-13, 2015, 770 Washington Ave, RSA Plaza Suite 350

XII. OTHER

- Dr. Parker welcomed the students from Southern Union State Community College.
- The Board welcomed LaDonna Burns, LPN. Ms. Burns replaced Miriam Ellerbe on the Board.
- Ms. Benson reported that the Examiners of Public Accounts suggested that Board members sign a waiver if they choose not to claim Board compensation, mileage reimbursement or per diem. Members are entitled to mileage reimbursement to and from Board meetings even if they are not going home after the meeting. Board members will be provided a waiver form at each Board meeting.
- Ms. Benson commended Dr. Russell for all the hard work she has done.
- Ms. Benson reported that she ran the numbers and if the Board were to join the National Licensure Compact (NLC), it would lose \$1.2 million annually.
- Dr. Baker and Ms. Price asked if the Executive Officer was on Family Medical Leave (FMLA), using leave time and the date it began.
- Ms. Johnson, Administrative Services Officer, reported that the Executive Officer is on FMLA and is using leave.
- Ms. Benson reported that some facts have recently come to light, including that some dates do not appear to be correct and Dr. Parker needs to do an official review before reporting to the Board.
- Ms. Price asked what Ms. Benson's title is because one of the documents she saw had Ms. Benson's title as Interim Executive Officer.
- Ms. Benson reported that Dr. Parker instructed her to use that title. NCSBN would not allow Ms. Benson to attend the EO meeting unless she was the EO or Interim EO.
- Ms. Henley reported that Ms. Benson's State title is Deputy Director but if the Board wants her to use that title, she can.
- Dr. Dearman asked if Ms. Benson is restricted from using the title Interim EO and placing it on the letterhead. Ms. Johnson reported that she would have to check with State Personnel.
- Ms. Price asked if Ms. Benson could be compensated for filling this role. Dr. Parker reported that she has asked Ms. Johnson to find out if they could give Ms. Benson a 5% stipend.
- Ms. Johnson reported that she contacted State Personnel about a 5% stipend for Ms. Benson and was told no to a pay increase because there is someone filling the EO position. Ms. Lee requested a pay increase for Ms. Benson before she went out on leave.
- Dr. Dearman reported that one of the duties of the Deputy Director is to fill in when the Executive Officer is out. Ms. Benson stated she had reviewed previous Board Meetings back to 2012, and the Deputy Director position was created as the succession plan.

- Ms. Price reported that if the Board expects Ms. Benson to be the Interim Executive Officer, it needs to be supported by compensation.
- Ms. Benson reported that she received a one-step increase this month from a previous request.
- **On February 19, Dr. Dearman moved that the Board direct Dr. Parker, as President, to contact State Personnel to request a stipend for the Deputy Director to cover for the amount of time the Executive Officer is on leave. Ms. King seconded. Motion carried without objection.**
- Ms. Price thanked Ms. Benson for all her hard work.
- Dr. Parker reported that in December 2014, some Board members received an anonymous letter regarding the Executive Officer. After much thought and the extent of time the EO has been out, the Board needs to conduct due diligence in looking into this matter.
- **On February 19, Dr. Wright moved that the Board do its due diligence in looking into this matter. Ms. Bailey seconded. Motion carried with three oppositions (Ms. Hill, Ms. Bullard, and Ms. Price).**
- Ms. Price asked how the Board was going to look into the matter. An anonymous letter removes from it a certain level of credibility.
- Dr. Parker reported that she will seek guidance from Ms. Henley and Mr. Garrett, but she can't give specifics on how the investigation will be conducted at this time.
- Ms. Hill reported that she thought that the Board decided in December not to do anything with the letter. The Board should look forward not back.
- Ms. Price reported that her opposition to the investigation is because of the time it will take and she feels the Board has already taken care of most of the issues in the letter.
- Ms. Price requested that the Executive Officer evaluation be placed on a future agenda.
- Dr. Dearman requested that Board members be provided an update on the EO before the March Board meeting. Dr. Dearman requested that the Board be notified as soon as the President and Deputy Director know.
- Robert Rollins, IT Systems Specialist, showed the Board the changes to the nurses profile page and the changes to the standardized procedure report for the Board.
- **On February 19, Dr. Dearman moved that the Board members and Board staff nurses get a framed copy of the Governor's Proclamation. Ms. Price seconded. Motion carried without objection.**
- Dr. Parker left at 2:16 p.m.

XIII. BOARD MEETING DEBRIEFING

XIV. ADJOURNMENT

The meeting adjourned at 2:17 p.m. on February 19, 2015.

Francine Parker, President

Gladys Davis Hill, Secretary

Submitted by: _____
Leslie Vinson, Recorder
2/19/2015